



DOCKET NO.: ISIS-3292

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Nielson et al.

Serial No.: 09/486,623

Filing Date: July 6, 2000

For: PEPTIDE NUCLEIC ACIDS HAVING ANTIBACTERIAL ACTIVITY

Confirmation No.: 9879

Group Art Unit: 1631

Examiner: A. Marschel

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EXPRESS MAIL LABEL NO: EL 884782297 US
DATE OF DEPOSIT: January 15, 2003

EL884782297US

Box ☐ NON-FEE
☒ AF

Assistant Commissioner for Patents
Washington DC 20231

Sir:

REPLY TRANSMITTAL LETTER

Transmitted herewith for filing in the above-identified patent application is:

- ☐ A Preliminary Amendment.
- ☐ An Amendment Responsive to the Office Action Dated .
- ☐ An Amendment Supplemental to the Paper filed .
- ☒ Other: Request for Reconsideration Further to Notice of Appeal filed December 20, 2002.
- ☐ Applicant(s) has previously claimed small entity status under 37 CFR § 1.27.
- ☐ Applicant(s) by its/their undersigned attorney, claims small entity status under 37 CFR § 1.27 as:
 - ☐ an Independent Inventor
 - ☐ a Small Business Concern

- ☐ a Nonprofit Organization
- ☐ This application is no longer entitled to small entity status. It is requested that this be noted in the files of the U.S. Patent and Trademark Office.
- ☐ Loss of Entitlement Enclosed
- ☐ Substitute Pages of the Specification are enclosed.
- ☐ An Abstract is enclosed.
- ☐ Sheets of Proposed Corrected Drawings are enclosed.
- ☐ A Certified Copy of each of the following applications: is enclosed.
- ☐ An Associate Power of Attorney is enclosed.
- ☐ Information Disclosure Statement.
 - ☐ Attached Form 1449.
 - ☐ A copy of each reference as listed on the attached Form PTO-1449 is enclosed herewith.
- ☐ Appended Material as follows:
- ☒ Other Material as follows: Submission of Terminal Disclaimer and Terminal Disclaimer to Obviate a Double Patenting Rejection Over a Prior Patent

FEE CALCULATION

☐ No Additional Fee is Due.

	REMAINING AFTER AMENDMENT	HIGHEST PAID FOR	EXTRA	SMALL ENTITY		NOT SMALL ENTITY	
				RATE	FEE	RATE	FEE
TOTAL CLAIMS	7	32 (20 MINIMUM)	0	\$9 EACH	\$	\$18 EACH	\$0
INDEP. CLAIMS	1	6 (3 MINIMUM)	0	\$42 EACH	\$	\$84 EACH	\$0
FIRST PRESENTATION OF MULTIPLE DEPENDENT				\$140	\$	\$280	\$0
<input type="checkbox"/> ONE MONTH EXTENSION OF TIME				\$55	\$	\$110	\$0
<input type="checkbox"/> TWO MONTH EXTENSION OF TIME				\$205	\$	\$410	\$0
<input type="checkbox"/> THREE MONTH EXTENSION OF TIME				\$465	\$	\$930	\$0
<input type="checkbox"/> FOUR MONTH EXTENSION OF TIME				\$725	\$	\$1450	\$0
<input type="checkbox"/> FIVE MONTH EXTENSION OF TIME				\$985	\$	\$1970	\$0
<input type="checkbox"/> LESS ANY EXTENSION FEE ALREADY PAID				minus	(\$)	minus	(\$0)
<input checked="" type="checkbox"/> TERMINAL DISCLAIMER				\$55	\$	\$110	\$110
<input type="checkbox"/> OTHER FEE OR SURCHARGE AS FOLLOWS:							
TOTAL FEE DUE					\$		\$110.00

- ☒ A check in the amount of **\$110.00** is attached. Please charge any deficiency or credit any overpayment to Deposit Account 23-3050.
- ☐ Petition is hereby made under 37 CFR § 1.136(a) (fees: 37 CFR § 1.17(a)(1)-(4) to extend the time for response to the Office Action of _____ to and through _____ comprising an extension of the shortened statutory period of _____ month(s).
- ☒ The Commissioner is hereby requested to grant an extension of time for the appropriate length of time, should one be necessary, in connection with this filing or any future filing submitted to the U.S. Patent and Trademark Office in the above-identified application during the pendency of this application. The Commissioner is further authorized to charge any fees related to any such extension of time to Deposit Account 23-3050. This sheet is provided in duplicate.
- ☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 23-3050. This sheet is provided in duplicate.
- ☐ The foregoing amount due for filing this paper.
- ☒ Any additional filing fees required, including fees for the presentation of extra claims under 37 CFR § 1.16.

☒ Any additional patent application processing fees under 37 CFR § 1.17 or 1.20(d).

SHOULD ANY DEFICIENCIES APPEAR with respect to this application, including deficiencies in payment of fees, missing parts of the application or otherwise, the U.S. Patent and Trademark Office is respectfully requested to promptly notify the undersigned.

Date:

January 15 2003


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PATENT



RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 1631

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Nielsen *et al.*

Serial No.: 09/486,623

Filed: July 6, 2000

For: **PEPTIDE NUCLEIC ACIDS HAVING ANTIBACTERIAL ACTIVITY**

Group Art Unit: 1631

Examiner: A. Marschel

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REQUEST FOR RECONSIDERATION

This is further to the Notice of Appeal filed on December 20, 2002 and is intended to place the application in condition for allowance.

Applicants acknowledge, with appreciation, the Examiner's withdrawal the rejections of claims 55 and 56 in the September 23, 2002 Advisory Action. Applicants also thank the Examiner for returning our January 13, 2003 call and confirming that the filing of a terminal disclaimer to remove U.S. Patent No. 6,300,318 as a reference would place the pending claims in condition for allowance.

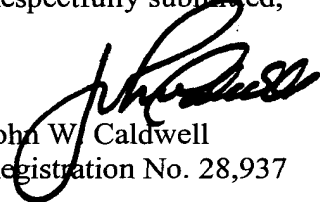
Claims 23 and 25-28 stand rejected as allegedly unpatentable under the doctrine of obviousness-type double patenting over claims 1-6 and 12 of U.S. Patent No. 6,300,318 (the 318 Patent). Although Applicants do not agree that the claimed subject matter would have

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been obvious to those of ordinary skill in view of the 318 Patent claims, in view of the fact no reduction of the term of a patent issuing on the present patent application will result by filing a terminal disclaimer with respect to the 318 Patent, Applicants choose to obviate the rejection for alleged double patenting by filing such a terminal disclaimer. This terminal disclaimer is enclosed herewith.

Applicants believe that the foregoing constitutes a complete and full response to the Office Action of record. Accordingly, an early and favorable reconsideration of the rejections and an allowance of all of pending claims is earnestly solicited.

Respectfully submitted,



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Date: January 15, 2003

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